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## Cover-Up on Clean Air

**T**he Bush administration made sure early on to fill key policy-making jobs in the important environmental agencies - Interior, Agriculture, Justice and the Environmental Protection Agency - with lawyers and lobbyists from the very industries the agencies are supposed to regulate. One person overlooked in this general ideological shakeup was Nikki Tinsley, a Clinton appointee who stayed on as the E.P.A.'s inspector general. Last week, much to the White House's dismay, Ms. Tinsley sharply criticized the administration for revoking an important rule governing pollution from power plants and other industrial sources, and for misinforming Congress about the potential impact of that decision on the government's ability to enforce the law.

Ms. Tinsley's rebuke was contained in a Congressionally mandated report tracing the administration's controversial decision to rescind a regulation known as New Source Review, which required companies like utilities to install new pollution-control technology whenever they upgraded their plants in ways that increased emissions. The rule was largely unused until the mid-1990's, when the Clinton administration and several Northeastern attorneys general actually started suing companies that had upgraded their plants without investing in the necessary controls. When Mr. Bush was elected, the companies sought relief from Mr. Bush's industry-friendly vice president, Dick Cheney. Mr. Cheney put the heat on the environmental agency, which immediately began designing a new rule. The rule was developed in broad outline by mid-1992 and finalized late last year.

It is, in a word, toothless. Senior E.P.A. officials always knew it would be - that was the point - but they have insisted publicly that it would not interfere with investigations begun under the old rule. In June 2002, for instance, Jeffrey Holmstead, an assistant E.P.A. administrator and the main architect of the new rule, told the Senate that he had been assured by the "enforcement folks" at his agency and the Justice Department that there would not be a "negative impact on enforcement cases."

Suspecting otherwise - and suspecting Mr. Holmstead knew better - Senator Patrick Leahy of Vermont ordered an internal investigation, which Ms. Tinsley has now produced. It confirms Mr. Leahy's worst fears. Even though the Northeastern states, as well as advocacy groups like the Natural Resources Defense Council, have temporarily blocked the new rule in court, its looming presence has badly undermined the government's ability to enforce old cases, let alone pursue new ones - exactly what the "enforcement folks" predicted from the start. More broadly, Ms. Tinsley said she could

find no basis for the new rule in science or law, and urged her superiors to restore the old one.

Michael Leavitt, the E.P.A. administrator, essentially inherited the rule change when he inherited his job from Christie Whitman last year. But he has shown no interest in turning things around. Getting rid of New Source Review is just too important to this administration, especially to Mr. Cheney. Instead, Mr. Leavitt insists that another rule he's proposed called the "transport rule" - dealing with pollution carried from west to east by prevailing winds - will clean the air faster and more cheaply than New Source Review. This recalls similar representations made by Ms. Whitman, who promised that Mr. Bush's "Clear Skies" proposal would be bigger and better than New Source Review. Yet Clear Skies never materialized, and neither has the transport rule. All we've seen is something that works flying out the window.